



C.R.P.(MD) No.2216 of 2023

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THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2023

CORAM:

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

C.R.P.(MD)No.2216 of 2023
and
C.M.P(MD) No.11335 of 2023

V.Thangapandi

... Petitioner

Vs.

M/s.Shriram Finance Limited,
Represented by its
Authorized representative
R.Anantha Kumar
No.296, APS Complex,
Opposite of Apple Mall,
Karpagam Nagar 11th Street,
K.Pudur, Madurai-7.

... Respondent

Prayer :- Petition filed under Article 227 of the Constitution of India, to call for the records pertaining to the impugned order passed in I.A.No. 1 of 2023 of Arbitration Case No.KP25 of 2023, dated 22.07.2023 on the file of the Sole Arbitrator, Madurai and quash the same as illegal and consequently directing the second respondent to conduct the fresh enquiry in I.A.No.1 of 2023 of Arbitration Case No.KP25 of 2023.



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For Petitioner : Mr.C.M.Arumugam

For Respondent : Mr.R.Ravichandran

ORDER

This Civil Revision petition is filed to call for the records pertaining to the impugned order passed in I.A.No.1 of 2023 of Arbitration Case No.KP25 of 2023 dated 22.07.2023 on the file of the Sole Arbitrator, Madurai and quash the same as illegal and consequently, direct the Arbitrator to conduct the fresh enquiry in I.A.No.01 of 2023 of Arbitration Case No.KP25 of 2023.

2. The learned counsel for the petitioner submitted that the award passed by the Arbitrator is arbitrary and violation of principles of natural justice. The proceedings before the Arbitration Tribunal was initiated without arriving the guarantor as necessary party to the proceedings which would vitiate the interlocutory proceedings in I.A.No.1 of 2023 in Arbitration Case No.KP25 of 2023. The sole arbitrator failed to verify that whether the respondent had followed the procedure as to the serving



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of copy of the petition and affidavit along with notice under the Act.

On 03.07.2023, the respondent has sent the liability notice to the petitioner after initiating the Arbitral proceedings. The respondent has initiated the Arbitral proceedings without issuing the statutory notice under Section 21 of the Act which is a pre-condition and statutory mandate. Therefore, the award passed by the Arbitral Tribunal is illegal and *void ab initio*. The respondent tried to recover the vehicle without any executable warrant. Hence, the impugned order passed by the sole Arbitrator is liable to be set aside. Hence, he prays for directing the second respondent to conduct the fresh enquiry in I.A.No.01 of 2023 in Arbitration Case No.KP25 of 2023.

3. On the other hand, the learned counsel for the respondent would submit that the contention of the petitioner is devoid of merits and the demand notice was duly served on the petitioner. Hence, he prays for dismissal of the petition.

4. I have considered the rival submission and perused the records.



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5. On perusal of the records, it is seen that the above said interlocutory application was taken on file on 06.07.2023. Subsequently, the sole Arbitrator passed the impugned order on 22.07.2023, i.e., within 18 days. Further, without any order for issuance of notice, the Sole Arbitrator on 15.07.2023 has recorded that the notice was refused by the petitioner. Therefore, certain infirmities are found in the adjudication of the Arbitration Tribunal. Hence, the order dated 22.07.2023, passed in I.A.No.01 of 2023 on the file of the Sole Arbitrator, Madurai is set aside and the matter is remanded back to the Sole Arbitrator, Madurai. The Sole Arbitrator, Madurai, is directed to conduct a fresh enquiry in I.A.No.1 of 2023 of Arbitration Case No.KP25 of 2023 and pass appropriate orders on merits and in accordance with law.

6. In fine, this Civil Revision Petition is allowed accordingly.
No costs. Consequently, connected miscellaneous petition is closed.

11.09.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes



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To

The Sole Arbitrator,
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

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